

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, *et
al.*,
Debtors.¹

PROMESA
Title III
No. 17 BK 3283-LTS
(Jointly Administered)
**This filing relates to the
Commonwealth, HTA and ERS.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO, PUERTO RICO
HIGHWAYS AND TRANSPORTATION AUTHORITY, AND EMPLOYEES
RETIREMENT SYSTEM OF THE GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO TO RESPONSES FILED BY CLAIMANTS ISMAEL COLON
ANDUJAR [ECF NO. 13455], JOEL MARTINEZ SANTIAGO [ECF NO. 13484],
ADONIS RUIZ NOGUERAS [ECF NO. 13152], AND YOLANDA ROSARIO ALVAREZ
[ECF NO. 13081] TO ONE HUNDRED NINETY-THIRD OMNIBUS OBJECTION
(NON-SUBSTANTIVE) TO SATISFIED CLAIMS**

To the Honorable United States District Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), the Puerto Rico Highways and Transportation Authority (“HTA”), and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS,” and together with the Commonwealth and HTA,

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5532-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

the “Debtors”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the representative of the Commonwealth, HTA, and ERS pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² files this reply (the “Reply”) in support of the *One Hundred Ninety-Third Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico, Puerto Rico Highways and Transportation Authority, and Employees Retirement System of the Government of the Commonwealth of Puerto Rico to Satisfied Claims* [ECF No. 12865] (the “One Hundred Ninety-Third Omnibus Objection”), and in support of the Reply, respectfully states as follows:

1. On April 17, 2020, the Debtors filed the One Hundred Ninety-Third Omnibus Objection seeking to disallow claims that purported to assert liability against the Debtors based on an allegedly owed tax refund or an allegedly unpaid invoice, for which the records of the Commonwealth and its Department of the Treasury show that each has been paid in full (collectively, the “Satisfied Claims”), each as listed on Exhibit A thereto.

2. Any party who disputed the One Hundred Ninety-Third Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on May 19, 2020, in accordance with the Court-approved notice attached to the One Hundred Ninety-Third Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the One Hundred Ninety-Third Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Eleventh Amended Case Management Order* [ECF No. 11885-1]). *See Certificate of Service* [ECF No. 12950].

3. The following responses addressing the One Hundred Ninety-Third Omnibus Objection remain outstanding:

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

- A letter [ECF No. 13455] (the “Colón Andujar Response”) filed by claimant Ismael Colon Andujar (“Colón Andujar”);
- A completed questionnaire [ECF No. 13484] (the “Martínez Santiago Response”) filed by claimant Joel Martínez Santiago (“Martínez Santiago”),
- A response [ECF No. 13081] (the “Rosario Alvarez Response”) filed by claimant Yolanda Rosario Alvarez (“Rosario Alvarez”), and
- A response [ECF No. 13152] (the “Ruiz Nogueras Response,” and together with the Colón Andujar Response, the Martínez Santiago Response, and the Rosario Alvarez Response, the “Responses”)) filed by claimant Adonis Ruiz Nogueras (“Ruiz Nogueras,” and together with Colón Andujar, Martínez Santiago, and Rosario Alvarez, the “Claimants”).

I. The Colón Andujar Response

4. The Colón Andujar Response, a handwritten, Spanish-language letter, was filed with the Court on June 16, 2020, and docketed as ECF No. 15012 on June 17, 2020. Colón Andujar filed a proof of claim against the Commonwealth on June 17, 2018, and it was logged by Prime Clerk as Proof of Claim No. 20695 (the “Colón Andujar Claim”). The Colón Andujar Claim purports to assert liabilities arising out of unpaid tax refunds in the amount of \$774. The Commonwealth’s records, however, show that on June 15, 2017, a tax refund payment in the exact amount asserted by the proof of claim was made via check number 19240114 to a recipient with the same name as Colón Andujar, and with a social security number ending in the same last four digits.

5. The Colón Andujar Response does not dispute that the allegedly unpaid tax refunds were paid. Instead, the Colón Andujar Response provides supporting documentation regarding liabilities allegedly owed to Colón Andujar arising out of his prior employment by the Corporación Azucarera de Puerto Rico and the Department of Transportation and Public Works. Colón Andujar has filed an additional claim asserting liabilities arising out of his prior employment, Proof of Claim No. 170684, which remains pending and is not currently subject to an objection. The

Commonwealth will consider the documentation submitted by Colón Andujar in relation to that claim. However, because the Colón Andujar Response does not refute the Commonwealth's showing that the Colón Andujar Claim has been fully satisfied, the Colón Andujar Claim should be disallowed.

II. The Martínez Santiago Response

6. The Martínez Santiago Response, dated June 17, 2020, was filed with the Court on June 19, 2020, and docketed June 24, 2020 as ECF No. 13484. Martínez Santiago filed a proof of claim against the Commonwealth on May 24, 2018, and it was logged by Prime Clerk as Proof of Claim No. 37093 (the "Martínez Santiago Claim"). The Martínez Santiago Claim asserts liabilities in the amount of \$604.00, but does not provide a basis for the liabilities asserted. The Commonwealth's records, however, show that on July 10, 2017, a tax refund payment in the exact amount asserted by the proof of claim was made via direct deposit to a recipient with the same name as Martínez Santiago, and with a social security number ending in the same last four digits.

7. The Martínez Santiago Response does not dispute that this direct deposit was paid. Rather, the Martínez Santiago Response provides supporting documentation regarding liabilities allegedly owed to Martínez Santiago arising out of his prior employment by the Department of Transportation and Public Works. Martínez Santiago has filed an additional claim asserting liabilities arising out of his prior employment, Proof of Claim No. 178470, which remains pending and is not currently subject to an objection. The Commonwealth will consider the documentation submitted by Martínez Santiago in relation to that claim. However, because the Martínez Santiago Response does not refute the Commonwealth's showing that the Martínez Santiago Claim has been fully satisfied, the Martínez Santiago Claim should be disallowed.

III. The Rosario Alvarez Response

8. The Rosario Alvarez Response was filed with the Court on May 8, 2020, and docketed on May 11, 2020 as ECF No. 13081. Rosario Alvarez filed a proof of claim against the Commonwealth on May 22, 2018, and it was logged by Prime Clerk as Proof of Claim No. 23069 (the “Rosario Alvarez Claim”). The Rosario Alvarez Claim asserted liabilities in the amount of \$2,399.00 arising from tax refunds. However, the Commonwealth’s records indicate that tax refund payments have already been made to Rosario Alvarez.

9. In the Rosario Alvarez Response, Rosario Alvarez certifies that the Department of the Treasury of Puerto Rico “does not owe [Rosario Alvarez] any money on my income tax returns for the years 2015, 2016, 2017, 2018, 2019.” Accordingly, the Rosario Alvarez Response does not dispute that the Rosario Alvarez Claim has already been fully satisfied.

IV. The Ruiz Nogueras Response

10. The Ruiz Nogueras Response, dated May 12, 2020, was filed with the Court on May 15, 2020, and docketed May 18, 2020 as ECF No. 13152. Ruiz Nogueras filed a proof of claim against the Commonwealth on March 12, 2018, and it was logged by Prime Clerk as Proof of Claim No. 2406 (the “Ruiz Nogueras Claim”). The Ruiz Nogueras Claim asserts liabilities in the amount of \$1,780, but does not provide a basis for the liabilities asserted. The Commonwealth’s records reflect that a direct deposit of that amount was made to Ruiz Nogueras in respect of Ruiz Nogueras’s tax refund for the 2016 tax year.

11. The Ruiz Nogueras Response does not dispute that Ruiz Nogueras’s 2016 tax refund was paid. In fact, the response states that “[t]he payment that came into my account was a refund from the 2016 Income Tax Return.” The Ruiz Nogueras Response also attaches a portion of Ruiz Nogueras’s bank account statement, reflecting a payment from the Commonwealth’s

Department of Treasury in the amount of \$1,780.00 on June 16, 2017. The Ruiz Nogueras Response also states that Ruiz Nogueras “[has] not received the money from the lawsuit.” However, the only case number for a pending proceeding referenced in either the Ruiz Nogueras Claim or the Ruiz Nogueras Response is Case No. 17-bk-3283, which is the Commonwealth’s Title III Case. Accordingly, to the extent the Ruiz Nogueras Claim seeks to assert liabilities arising from an alleged 2016 tax refund, the claim has already been satisfied, because as the Ruiz Nogueras Response demonstrates, payment of the alleged 2016 tax refund has already been made. To the extent the Ruiz Nogueras Claim seeks to assert liabilities arising from a pending legal proceeding, the claim is deficient because it has not provided information sufficient to enable the Debtors to reconcile the claim, such as the case number of the pending proceeding or an explanation of the liabilities purportedly owed.

12. For the foregoing reasons, the Debtors respectfully request the Court grant the One Hundred Ninety-Third Omnibus Objection and disallow the Claims in their entirety.

Dated: January 22, 2021
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

Hermann D. Bauer
USDC No. 215205
Carla García Benítez
USDC No. 203708
Daniel J. Perez-Refojos
USDC No. 303909

O'NEILL & BORGES LLC
250 Muñoz Rivera Ave., Suite 800
San Juan, PR 00918-1813
Tel: (787) 764-8181
Fax: (787) 753-8944

Attorneys for the Financial Oversight and Management Board for Puerto Rico, as representative of the Commonwealth of Puerto Rico, Puerto Rico Highways and Transportation Authority, and Employees Retirement System of the Government of the Commonwealth of Puerto Rico

/s/ Martin J. Bienenstock

Martin J. Bienenstock (*pro hac vice*)

Brian S. Rosen (*pro hac vice*)

PROSKAUER ROSE LLP

Eleven Times Square
New York, NY 10036
Tel: (212) 969-3000
Fax: (212) 969-2900

Co-Attorneys for the Financial Oversight and Management Board for Puerto Rico, as representative of the Commonwealth of Puerto Rico, Puerto Rico Highways and Transportation Authority, and Employees Retirement System of the Government of the Commonwealth of Puerto Rico